



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,840	03/26/2004	Blayn W. Beenau	54022.4600	2839
20322 7590 07/17/2008 SNELL & WILMER L.L.P. (Main) 400 EAST VAN BUREN ONE ARIZONA CENTER PHOENIX, AZ 85004-2202			EXAMINER KAMAL, SHAHID	
			ART UNIT 3621	PAPER NUMBER
			MAIL DATE 07/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/708,840	<b>Applicant(s)</b> BEENAU ET AL.	
	<b>Examiner</b> SHAHID KAMAL	<b>Art Unit</b> 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 21-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-7, 9, 11-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/23/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Status of Claims***

1. Claims 1, 4, 6-7, 9 and 11-27 are currently pending.
2. This Office Action is responsive to the amendment filed on May 09, 2008.
3. Claims 1, 4, 6-7, 9 and 11-20 are examined.

### ***Restrictions***

4. Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-20, drawn to a method for electronic credential, classified in class 705, subclass 76.
  - II. Claims 21-27, drawn to a system for authenticating control circuit, classified in class 340, subclass 5.22.
5. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I, drawn to a method for electronic credential. Subcombination II, drawn to a system for authenticating control circuit. These two subcombinations do not overlap in scope and are not obvious variants of each other. The first

subcombination is related to electronic credential, while the second subcombination is directed to authenticating control circuit. The two subcombinations do not overlap because they can exist independently of each other and they have separate structural elements. See MPEP § 806.05(d).

6. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification/ sub classification, restriction for examination purposes as indicated is proper.

7. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a).

Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Art Unit 3621

8. Newly submitted claims 21-27, directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims are directed to a non-elected invention.

9. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-27 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

10. Claims 21-27 are withdrawn from further consideration pursuant to 37 C.F.R. §1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Election was made without traverse.

### ***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 4, 6-7, 9 and 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. (US Patent No.: 6,397,198 B1) (“Hoffman”) in view of Kennedy et al. (US Patent No.: 6,084,967) (“Kennedy”).

Referring to claim 1, Hoffman discloses the following:

- a) detecting **said** proffered biometric **sample** at a **biometric** sensor (see abstract, fig.2 & associated texts, column 2, lines 38-49);
- b) **associating said proffered biometric sample with at least one of an device, a user identifier, and a transaction account** (see fig.2 and associated texts, column 1, lines 34-54, column 6, lines 16-29);
- c) verifying said proffered biometric sample **in order to activate said device and confirm said proffered biometric sample** (see abstract, column 5, lines 43-48); and
- d) storing said proffered **biometric sample as a registered biometric sample** (see abstract, fig.2 & associated texts, column 2, lines 38-49);
- e) **receiving a transaction request from said device, wherein said transaction request comprises a transaction biometric sample** (see abstract, fig.2 & associated texts); **and**,
- f) **authorizing said transaction request when said transaction biometric sample matches said registered biometric sample** (see fig.6 & associated texts, column 2, lines 24-35, column 2, lines 34-59).

Hoffman does not expressly disclose RF device.

Kennedy discloses RF device (see claim 1).

Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified of Hoffman to include the step(s) taught by Kennedy as discussed above in order to provide RFID tagging is a system that uses small radio frequency identification devices for identification and tracking purposes. A RFID tagging system includes the tag itself, a read/write device, and a host system application for data collection, processing and transmission. An RFID tag consists of a chip, some memory and an antenna.

Referring to claim 4, Hoffman further discloses wherein **said detecting of said proffered biometric sample** includes at least one of detecting, associating, and processing at least one additional proffered biometric sample (see abstract, fig.2 & associated texts, column 2, lines 38-49).

Referring to claim 6, Hoffman further discloses wherein **said verifying of said proffered biometric sample comprises** comparing **said** proffered biometric sample with a stored biometric sample (see abstract, column 5, lines 43-48).

Referring to claim 7, Hoffman further discloses wherein **said comparing of said** proffered biometric sample with **said** stored biometric sample includes comparing **said** proffered biometric sample with at least one of **an authorized and unauthorized** biometric sample (see fig.6 & associated texts, column 2, lines 24-35, column 2, lines 34-59).

Referring to claim 9, Hoffman further discloses wherein **said** verifying of **said proffered biometric sample** includes verifying **said** proffered biometric sample using **at least** one of a protocol/sequence controller and a third-party security vendor (see abstract column 5, lines 43-48).

Referring to claim 11, Hoffman further discloses wherein **said** storing of **said proffered** biometric sample includes storing **said** proffered biometric sample on at least one of a local database, a remote database, and a third-party controlled database (see abstract, column 2, lines 38-45).

Referring to claim 12, Hoffman further discloses wherein said verifying of said proffered biometric sample comprises comparing said proffered biometric sample with a verification biometric sample received from said device (see abstract, column 5, lines 43-48).

Hoffman does not expressly disclose RF device.

Kennedy discloses RF device (see claim 1).

Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified of Hoffman to include the step(s) taught by Kennedy as discussed above in order to provide RFID tagging is a system that uses small radio frequency identification devices for identification and tracking purposes. A RFID tagging system includes the tag itself, a



read/write device, and a host system application for data collection, processing and transmission. An RFID tag consists of a chip, some memory and an antenna.

Referring to claim 13, Hoffman further discloses wherein said biometric sensor comprises at least one of: a retinal scan sensor, an iris scan sensor, a fingerprint sensor, a hand print sensor, a hand geometry sensor, a voice print sensor, a vascular sensor, a facial sensor, an ear sensor, a signature sensor, a keystroke sensor, an olfactory sensor, an auditory emissions sensor, and a DNA sensor (see column 4, lines 5-9, column 9, lines 2-15).

Referring to claim 14, Hoffman discloses wherein said proffered biometric sample comprises a biometric sample characteristic comprising at least one of: blood flow, correctly aligned ridges, pressure, motion, body heat, ridge endings, bifurcation, lakes, enclosures, short ridges, dots, spurs, crossovers, pore size, pore location, loops, whorls, and arches (see abstract, column 4, lines 5-9, column 9, lines 2-15).

Referring to claim 15, Hoffman further discloses wherein said user identifier comprises at least one of: personal information, financial information, loyalty point information, employee information, employer information, medical information, and/or family information (see column 4, lines 6-25, column 6, lines 31-40).

Referring to claim 16, Hoffman further discloses associating a second biometric sample with at least one of a second device, a user identifier, and a transaction account (see fig.2 and associated texts, column 1, lines 34-54, column 6, lines 16-29).

Hoffman does not expressly disclose RF device.

Kennedy discloses RF device (see claim 1).

Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified of Hoffman to include the step(s) taught by Kennedy as discussed above in order to provide RFID tagging is a system that uses small radio frequency identification devices for identification and tracking purposes. A RFID tagging system includes the tag itself, a read/write device, and a host system application for data collection, processing and transmission. An RFID tag consists of a chip, some memory and an antenna.

Referring to claim 17, Hoffman further discloses wherein said biometric sensor is associated with at least one of: a local database, a remote database, a portable storage device, a host system, an issuer system, a merchant system, a fob issuer system, an employer, a financial institution, a non- financial institution, a loyalty point provider, a company, the military, the government, a school, a travel entity, a transportation authority, and a security company (see abstract, column 2, lines38-45).

Referring to claim 18, Hoffman further discloses transmitting a device authentication code from a sample receiver to said device (see fig.6 & associated texts, column 2, lines 24-35, column 2, lines 34-59); receiving an encrypted device authentication code, a second proffered biometric sample, and a unique device identification code from said device (see fig.6 & associated texts, column 2, lines 24-35, column 2, lines 34-59); decrypting said encrypted device authentication code using a unique device decryption key corresponding to said unique device authentication code (see fig.6 & associated texts, column 2, lines 24-35, column 2, lines 34-59); comparing said decrypted device authentication code to said device authentication code (see fig.6 & associated texts, column 2, lines 24-35, column 2, lines 34-59); and authenticating said device when said second proffered biometric sample matches said registered biometric sample and when said decrypted device authentication code matches said device authentication code (see column 6, lines 40-55).

Hoffman does not expressly disclose RF device.

Kennedy discloses RF device (see claim 1).

Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified of Hoffman to include the step(s) taught by Kennedy as discussed above in order to provide RFID tagging is a system that uses small radio frequency identification devices for identification and tracking purposes. A RFID tagging system includes the tag itself, a read/write device, and a host system application for data collection, processing and transmission. An RFID tag consists of a chip, some memory and an antenna.

Referring to claim 19, Hoffman further discloses receiving an encrypted device account code from said device (see column 4, lines 57-63, column 5, lines 10-134); decrypting said encrypted device account code using said unique device decryption key (see column 4, lines 57-63, column 5, lines 10-134); and transmitting said decrypted device account code for processing (see abstract, fig.2, column 4, lines 57-63, column 5, lines 10-134).

Hoffman does not expressly disclose RF device.

Kennedy discloses RF device (see claim 1).

Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified of Hoffman to include the step(s) taught by Kennedy as discussed above in order to provide RFID tagging is a system that uses small radio frequency identification devices for identification and tracking purposes. A RFID tagging system includes the tag itself, a read/write device, and a host system application for data collection, processing and transmission. An RFID tag consists of a chip, some memory and an antenna.

Referring to claim 20, Hoffman further discloses receiving a reader authentication code from said device (see fig.6 & associated texts, column 2, lines 24-35, column 2, lines 34-59); encrypting said reader authentication code using a reader encryption key to create an encrypted reader authentication code (see column 4, lines 57-63, column 5, lines 10-134); and transmitting said

encrypted reader authentication code to said device for authentication of said sample receiver (see column 4, lines 57-63, column 5, lines 10-134).

Hoffman does not expressly disclose RF device.

Kennedy discloses RF device (see claim 1).

Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified of Hoffman to include the step(s) taught by Kennedy as discussed above in order to provide RFID tagging is a system that uses small radio frequency identification devices for identification and tracking purposes. A RFID tagging system includes the tag itself, a read/write device, and a host system application for data collection, processing and transmission. An RFID tag consists of a chip, some memory and an antenna.

***Examiner's Note:***

13. The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

***Response to Arguments***

14. Applicant's arguments with respect to claims 1, 4, 6-7, 9 and 11-20 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

15. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shahid Kamal whose telephone number is (571) 270-3272. The examiner can normally be reached on MONDAY through THURSDAY between the hours of 8:30 AM and 7 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew J. Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding

is assigned is 571-273-8300 for Regular/After Final Actions and 571-273-6714 for Non-Official/Draft.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Shahid Kamal  
July 3, 2008

/ANDREW J. FISCHER/  
Supervisory Patent Examiner, Art Unit 3621